

Remarks

Claims 1-34 are pending. Entry of the amendment is respectfully requested. No new matter has been added. Reconsideration is respectfully requested.

Claim Status

Claims 1-2 were rejected as anticipated pursuant to 35 U.S.C. § 102(b) over Gardner (US 5,929,413).

Claims 3-4, 7-11, and 25-28 were rejected as obvious pursuant to 35 U.S.C. § 103(a) over Gardner.

Claims 12-16 were rejected as obvious pursuant to 35 U.S.C. § 103(a) over Gardner in view of Isozaki (US 4,919,058).

Claim 17 was rejected as obvious pursuant to 35 U.S.C. § 103(a) over Gardner/Isozaki in view of Beck (US 4,612,864).

Claims 5-6, 18-24, and 29-34 were indicated allowable if written in an independent form. Indication of allowable subject matter is greatly appreciated.

The Amendments

Claim 5 (as claim 1) and claim 29 (as claim 27) were placed in an independent form as requested. Thus, Applicants respectfully submit that claims 1 and 27 are now allowable.

The Rejections

The Applicants respectfully traverse the rejections. Claim 3 includes the deformable resilient card moving member feature indicted allowable with regard to claims 5 and 29. The references, taken alone or in combination, do not teach or suggest a resilient card moving member adjacent the outlet end of a card reader, where the resilient moving member is deformed

to cause a card moved through the outlet end to be thrown away from the card reader during an ATM card capturing operation. Thus, Applicants respectfully submit that claim 3 is allowable.

The Action's mention of Carnegie (US 6,402,024) and Gustin (US 6,021,048) with regard to claims 4, 7, and 26 is moot as these references are not of record. Further, the rejections of these claims are based solely on Gardner. Nevertheless, the references, taken alone or in combination, do not teach or suggest a relationship among a resilient portion, card, and card reader, especially where the resilient portion is operative to cause the card to be moved away from the card reader by being thrown in an inward direction.

The Applicants respectfully disagree with the motivation provided for the rejection of claim 9. It is unclear how cards dropped into a bin could then fly out of the bin.

The Applicants also respectfully disagree with the motivation provided for the rejection of claim 11. The Action admits that Gardner does not teach or suggest a bin lid. There is good reason why Gardner does not have a bin lid. Gardner has a top wall (82) which appears to be one piece with at least one (81) of the side walls (col. 3, lines 58-61). Further, the solenoid (94) is fixedly mounted to the top wall (82) (col. 5, lines 36-40). Also, the support piece (92) connects the top wall (82) to the extending portion (90), which itself is fixedly connected to the side wall (81) (col. 5, lines 23-30). The Action is silent as to how a lid could provide the necessary structural support for the fixed fraud tool (99) and still be opened. The Action is also silent as to how the blocking location of the fraud tool (99) would enable the removal of a card from the bin via a lid. It would not have been obvious to one having ordinary skill in the art to have modified Gardner with a lid as alleged.

The applied art also does not teach or suggest the recited features of the remaining dependent claims. Each of the dependent claims depends directly or indirectly from an independent claim. The Applicants have shown the independent claims to be allowable. Thus, it is asserted that the dependent claims are allowable on the same basis. Furthermore, each dependent claim additionally recites specific features and relationships that further patentably distinguish the claimed invention over the applied art.

The record lacks substantial evidence support for the rejections. *In re Zurko*, 258 F.3d 1379, 59 USPQ2d 1693 (Fed. Cir. 2001). *In re Lee*, 277 F.3d 1338, 61 USPQ2d 1430 (Fed. Cir. 2002). A *prima facie* case of obviousness has not been established. The references, taken alone or in combination, do not teach or suggest the recited features and relationships.

Conclusion

Applicants respectfully submit that this application is in condition for allowance.

The undersigned will be happy to discuss any aspect of the Application by telephone at the Office's convenience.

Respectfully submitted,



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